

the U.S. Internal Revenue Code. Citizens United seeks to promote social welfare through informing and educating the public on conservative ideas and positions in issues, including national defense, the free enterprise system, belief in God, and the family as the basic unit of society. In furtherance of those ends, Citizens United produces and distributes information and documentary films on matters of public importance. Citizens United regularly requests access to the public records of federal government agencies, entities, and offices, to disseminate its findings to the public through its documentary films and publications.

4. Defendant, the United States Department of Commerce, is an agency of the United States Government and is headquartered at 1401 Constitution Avenue N.W., Washington, D.C. 20230. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. Citizens United routinely submits FOIA requests, and this matter concerns one FOIA request letter submitted to Defendant on September 16, 2019 to which Defendant has failed to respond.

6. On September 16, 2019, Citizens United submitted a FOIA request, online, to Defendant. *See* Exhibit A. The request sought:

All emails to or from former Commerce Department Bureau of Industry and Security officials Eric L. Hirschhorn, Daniel O. Hill, Kevin J. Wolf, or David W. Mills that mention any of the following names or entities: Rosemont Capital; Bohai Harvest RST (BHR); Jonathan Li; Xin Wang; Aviation Industry Corporation of China (AVIC); Henniges; or China National Aero-Technology Import and Export Corporation (CATIC).

All emails between former Commerce Department Bureau of Industry and Security official Eric L. Hirschhorn and the following individuals: Hunter Biden, Christopher Heinz, Devon Archer, Daniel Burrell, or David Leiter.

All emails between former Commerce Department Bureau of Industry and Security official Daniel O. Hill and the following individuals: Hunter Biden, Christopher Heinz, Devon Archer, Daniel Burrell, or David Leiter.

All emails between former Commerce Department Bureau of Industry and Security official Kevin J. Wolf and the following individuals: Hunter Biden, Christopher Heinz, Devon Archer, Daniel Burrell, or David Leiter.

All emails between former Commerce Department Bureau of Industry and Security official David W. Mills and the following individuals: Hunter Biden, Christopher Heinz, Devon Archer, Daniel Burrell, or David Leiter.

The time period covered by the FOIA request was January 1, 2014 to January 20, 2017.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant is required to respond to Citizens United's FOIA requests within 20 working days of each request.

8. The Commerce Department acknowledged receipt of the FOIA request on the date of its submission, assigning the request Tracking Number DOC-BIS-2019-002213. *See* Exhibit A.

9. With regard to Citizens United's FOIA request, the statutory deadline has passed, and Defendant has failed to provide a substantive response to the FOIA request. In fact, as of the date of this Complaint, Defendant has failed to produce a single responsive record or assert any claims that responsive records are exempt from production.

10. Since Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i), Citizens United is deemed to have fully exhausted any and all administrative remedies with respect to its FOIA requests. *See* 5 U.S.C. § 552(a)(6)(C).

CAUSE OF ACTION
(Violation of FOIA, 5 U.S.C. § 552)

11. Plaintiff realleges paragraphs 1 through 10 as though fully set forth herein.

12. Defendant has failed to make a determination regarding Citizens United's September 16, 2019 FOIA request for records of emails that mention certain specified topics or

between certain specified individuals (DOC-BIS-2019-002213) within the statutory time limit and is unlawfully withholding records requested by Citizens United pursuant to 5 U.S.C. § 552.

13. Citizens United is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Citizens United will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Citizens United requests that the Court grant all appropriate relief for the violations of FOIA alleged above, including:

- a. An order and judgment requiring the Defendant to conduct a search for any and all records responsive to Citizens United's FOIA request and to demonstrate that it employed search methods reasonably likely to lead to the discovery of all records responsive to Citizens United's request;
- b. An order and judgment requiring the Defendant to produce, by a date certain, any and all non-exempt records responsive to Citizens United's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption;
- c. An order and judgment permanently enjoining Defendant from continuing to withhold any and all non-exempt records in this case that are responsive to Citizens United's FOIA request;
- d. Attorneys' fees and costs to Plaintiff pursuant to any applicable statute or authority, including 5 U.S.C. § 552(a)(4)(E); and
- e. Any other relief that this Court in its discretion deems just and proper.

/s/ Jeremiah L. Morgan

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